

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GARY W. TIPTON,

Plaintiff,

vs.

CORE CIVIC OF AMERICA, et al.

Defendant.

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CASE NO. 1:20-cv-02346

OPINION & ORDER
[Resolving Doc. [26](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Pro se Ohio inmate Plaintiff Gary Tipton brings a civil rights complaint against the warden of Lake Erie Correctional Institute and other facility staff.¹ Plaintiff contends that the medical treatment he received following June and July 2020 suicide attempts violated his constitutional rights.²

Plaintiff asks the Court to appoint a medical expert witness to assist him with his case.³ Plaintiff argues that he needs the assistance of a medical expert to “properly present the medical facts in this case.”

Plaintiff cites the Supreme Court’s decision in *McWilliams v. Dunn* to support his argument that the Court should appoint or provide Plaintiff access to a medical expert.⁴ But *McWilliams* and *Ake* address a criminal defendant’s constitutional right to a

¹ Doc. [1](#); Doc. [10](#); Doc. [21](#).

² See Doc. [21](#).

³ Doc. [26](#).

⁴ *Id.* at 2 (citing [McWilliams v. Dunn](#), 137 S. Ct. 1790, 1798 (2017)). In *McWilliams*, the Supreme Court held that its previous ruling in [Ake v. Oklahoma](#), 470 U.S. 68 (1985) meant that Alabama had to provide the *McWilliams* Defendant with “access to a competent psychiatrist who will conduct an appropriate examination and assist in evaluation, preparation, and presentation of the defense.” [McWilliams](#), 137 S. Ct. at 1798 (citing [Ake](#), 470 U.S. at 83).

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psychiatrist's expertise. That is not Plaintiff's situation. Tipton is the *pro se* Plaintiff in this civil action against Defendants.⁵

In civil cases, Courts cannot appoint medical experts for plaintiffs. Federal Rule of Civil Procedure 706 permits a court to designate an expert witness to assist *the court*, not a party to a case.⁶ "An expert appointed pursuant to Rule 706 does not serve as an advocate for either party, and each party retains the ability to call its own experts."⁷

Further, "[t]he *in forma pauperis* statute, 28 U.S.C. § 1915, does not authorize federal courts to appoint or authorize payment for expert witnesses for prisoners or other indigent litigants."⁸

For the foregoing reasons, **DENIES** Plaintiff's motion to appoint an expert.

IT IS SO ORDERED.

Dated: August 2, 2021

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁵ Plaintiff also cites the Ohio Supreme Court for the standard for when "an indigent criminal defendant [must] be provided funds to obtain expert assistance at state expense." Doc. 33 at 1 (citing *State v. Mason*, 694 N.E.2d 932, 939 (Ohio 1998)). This statement of law does not apply to Defendant's situation. He is a civil plaintiff, not a criminal defendant in the current case.

⁶ *Jones v. Ahmed*, No. 1:14-cv-964, 2018 WL 8495820, at *1 (S.D. Ohio Aug. 3, 2018); *Goetz v. Thompson*, No. 3:15-CV-50-GFVT, 2016 WL 347021, at *2 (E.D. Ky. Jan. 26, 2016); see also *Pedraza v. Jones*, 71 F.3d 194, 196 (5th Cir. 1995); *Carranza v. Fraas*, 471 F. Supp. 2d 8, 9–10 (D.D.C. 2007).

⁷ *Patton v. Loadhold*, 445 F. Supp. 3d 802, 803 (E.D. Cal. 2020).

⁸ *Id.* (citing *Stakey v. Stander*, No. 1:09-CV-00094-BLW, 2011 WL 887563, at *3 n.1 (D. Idaho Mar. 10, 2011)).